



**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Seek Comment on Request by American Hospital Association for Blanket Waiver to Permit Healthcare Facilities to Use Amateur Radio as Part of Emergency Preparedness Drills)	WP Docket No. 10-54
)	

To: The Commission

COMMENTS

In response to the *Public Notice* in the captioned proceeding,¹ the New Jersey Hospital Association hereby submits comments in support of the American Hospital Association's ("AHA") request for a blanket waiver of Section 97.113(a)(3) of the Commission's rules² to permit healthcare facilities to utilize Amateur Radio operations as part of emergency preparedness drills. Grant of the requested waiver is consistent with the underlying purpose of the Amateur Radio Service and would otherwise serve the public interest.

The New Jersey Hospital Association (NJHA) is a not-for-profit trade organization committed to helping New Jersey healthcare facilities and health systems provide quality, accessible and affordable care to their communities.

¹ *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Seek Comment on Request by American Hospital Association for Blanket Waiver to Permit Healthcare Facilities to Use Amateur Radio as Part of Emergency Preparedness Drills*, WP Docket No. 10-54, *Public Notice*, DA 10-365 (rel. Mar. 3, 2010) ("*Public Notice*").

² 47 C.F.R. § 97.113(a)(3).

In order to effectively provide healthcare services during disasters and other emergency situations, healthcare facilities must develop and test plans for operating during such scenarios. One of the critical components of these plans is ensuring that healthcare facilities can communicate during disasters.

Accreditation and certification organizations require healthcare facilities to have such plans in place and to regularly test the effectiveness of the plans. As AHA noted in its waiver request, amateur radio has been identified by an accreditation organization as a potential backup communications process to be identified in emergency preparedness plans for use if primary communications systems fail.³ The Commission also recognized that the amateur radio community played an important role in the wake of Hurricane Katrina⁴ and could do so in similar disaster situations.

The Amateur Radio Service was created, in part, in response to the recognition that amateur radio operations provide important public benefits, “*particularly with respect to providing emergency communications.*”⁵ The rules expressly permit an amateur radio station “to use any means of radiocommunications at its disposal” to provide essential communications during emergencies without first obtaining prior Commission approval.⁶ Despite this regulatory regime, the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and the Enforcement Bureau issued a Public Notice in October informing healthcare facilities for the first time that employees with amateur radio licenses could not utilize their amateur stations

³ See AHA Blanket Waiver Request at 1-2.

⁴ See *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, WC Docket No. 06-63, Order, 22 FCC Rcd 10541, 10576 (2007).

⁵ 47 C.F.R. § 97.1(a).

⁶ 47 C.F.R. § 97.403.

in support of emergency preparedness drills absent grant of a waiver.⁷ The *Waiver Public Notice* then established a process for obtaining drill-specific waivers to permit healthcare facility employees with amateur radio licenses to participate in emergency preparedness drills.⁸ This process is time consuming and burdensome, particularly given the fact that healthcare facilities are not by their nature in the business of operating communications networks. Healthcare facilities would need to divert already scarce resources from their primary focus – providing healthcare to the American public – in order to prepare ministerial filings with little or no corresponding public benefit.⁹

Grant of AHA's blanket waiver request would permit amateur radio operators to participate in drills designed to ensure continued communications during emergency situations. Amateur operators already are permitted to conduct emergency communications without prior Commission approval. There appears to be little benefit associated with requiring prior approval before amateur operators can participate in drills designed to prepare them for actual emergency situations.

The grant of the blanket waiver, however, should not be limited to healthcare facilities seeking accreditation from the Joint Commission. The Joint Commission is an important and widely used accreditation organization. However, there are additional accreditation bodies that are utilized by healthcare facilities, primarily the American Osteopathic Association's Healthcare

⁷ See *Amateur Service Communications during Government Disaster Drills*, DA 09-2259, *Public Notice*, 24 FCC Rcd 12872, 12872 (WTB/PSHSB/EB 2009) ("*Waiver Public Notice*").

⁸ *Id.*

⁹ Absent a compelling public interest rationale, healthcare facilities should not be required to prepare and file notices with the Commission regarding each emergency drill they perform. See *Public Notice* at 2 ("Commenters may also address whether, if blanket relief were to be granted, there would be some benefit from requiring healthcare facilities to provide notice to the Commission concerning emergency drills they perform, and what such notices should entail").

Facilities Accreditation Program and DNV Healthcare. Further many smaller healthcare facilities and post-acute care facilities seek certification from their State rather than accreditation from an accreditation body. However, all these accreditation and certification bodies have similar requirements with regard to emergency preparedness and all incorporate within their programs the comprehensive requirements contained in the Medicare Conditions of Participation (CoPs). Incorporating the CoPs allows these accreditation and certification bodies to deem healthcare facilities compliant with the Medicare program participation requirements, which, in turn, allows healthcare facilities to be paid for services furnished to Medicare beneficiaries. One important Medicare Hospital CoP,¹⁰ “The patient has the right to receive care in a safe setting” is interpreted by the Medicare program, to mean the healthcare facility must develop and implement appropriate emergency preparedness plans and capabilities. In doing so, healthcare facilities must consider (among other things) “[c]ommunication to external entities if telephones and computers are not operating or become overloaded (e.g., *ham radio operators*, community officials, other healthcare facilities if transfer of patients is necessary, etc.)”¹¹ and “[q]ualifications *and training* needed by personnel, including healthcare staff, security staff, and maintenance staff, to implement and carry out emergency procedures.”¹² Accordingly, any healthcare facilities seeking accreditation or certification should be covered by the blanket waiver regardless of the entity providing the accreditation/certification.

Based on the foregoing, a blanket waiver of Section 97.113(a)(3) should be granted expeditiously to permit healthcare facilities seeking accreditation or certification “to use amateur

¹⁰ 42 C.F.R. § 482.13(c)(2)

¹¹ CMS State Operations Manual

¹² *Id.*

radio operators who are healthcare facility employees to transmit communications on behalf of the healthcare facility as part of emergency preparedness drills.”¹³

Respectfully submitted,



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¹³ *Public Notice* at 1.